

United States Government
MEMORANDUM**Office of
Personnel Management**

Subject: Interpretation of the "Assistance in Representing" restriction of 18 U.S.C. §207(b)(ii) Date: February 22, 1979
In Reply Refer To:

From: Bernhardt K. Wruble
Director, Office of Government Ethics

Your Reference:

To: Heads of Departments, Independent Agencies and Government Corporations

DD/A Registry
File *Legal*

By letter dated February 16, 1979, Senators Ribicoff and Percy of the Committee on Government Operations and Representatives Danielson and Moorhead of the Committee on the Judiciary called upon the Director of the Office of Government Ethics to issue "clear and concise guidance" on the new aiding and assisting provision of 18 U.S.C. §207(b)(ii), added by the Ethics in Government Act of 1978. They enclosed a memorandum for use in connection with the Director's "responsibility to recommend regulations" under the Act. The letter and memorandum were published in the Congressional Record of February 21, 1979, at S.1613.

Section 207(b)(ii), which applies only to certain senior government employees, provides that for a period of two years such former employees may not knowingly represent, or assist in representing any other person in connection with a specific matter in which the former employee was officially involved. The statutory language, though not wholly clear, suggests that the prior involvement of the former employee could consist of "official responsibility," rather than the stricter test of "personal and substantial participation."

The letter and memorandum, based on the legislative history, clarify this point and state that the prohibition was intended to be limited to matters in which the former employee "personally and substantially participated." The memorandum also stresses that the restriction is limited to representational assistance directly related to an appearance in a dispute with the government, and that it does not prohibit customary supervisory activities.

Although it would be premature to state the exact manner in which this will be reflected in the regulations that will be proposed for promulgation by the President or by OPM, the wide-spread interest in this particular provision and the importance of the letter and memorandum merit calling special attention to them.

B K Wruble

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